

BILL ANALYSIS

Senate Research Center

S.B. 457
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Open Government
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, photographic and x-ray autopsy records held by a medical examiner are not subject to mandatory disclosure under the Texas Public Information Act. However, current law provides that each time a request for such records is made, the medical examiner must request a decision from the attorney general regarding whether they must be disclosed.

S.B. 457 provides that the governmental body is not required to seek an open records decision from the Texas attorney general if the governmental body declines to provide the photograph or x-ray.

S.B. 457 amends current law relating to the confidentiality of certain autopsy records.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11, Article 49.25, Code of Criminal Procedure, as follows:

Sec. 11. RECORDS. (a) Creates this subsection from existing text. Prohibits records kept by the medical examiner relating to the death of certain individuals from being withheld, subject to a discretionary exception under Chapter 552 (Public Information), Government Code, rather than providing that the records are subject to required public disclosure in accordance with Chapter 552, Government Code, except that a photograph or x-ray of a body taken during an autopsy is excepted from required public disclosure in accordance with Chapter 552, Government Code, but is subject to disclosure:

(1) under a subpoena or authority of other law; or

(2) if the photograph or x-ray is of the body of a person who died while in the custody of law enforcement.

(b) Authorizes a governmental body as defined by Section 552.003 (Definitions), Government Code, under the exception to public disclosure provided by Subsection (a), to withhold a photograph or x-ray described by Subsection (a) without requesting a decision from the attorney general under Subchapter G (Attorney General Decisions), Chapter 552, Government Code. Provides that this subsection does not affect the required disclosure of a photograph or x-ray under Subsection (a)(1) or (2).

SECTION 2. Provides that the changes in law made by this Act apply only to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act. Provides that a request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2013.